

REMARKS / DISCUSSION OF ISSUES

In the present response, claim 3 is cancelled without prejudice, claims 1, 4, 18 and 20 are amended. No new matter is added.

Claims 1, 2, 4 – 34 are pending in the application. Claims 1, 18 and 20 are independent.

35 U.S.C. 103

Under 35 U.S.C. 103(a) the Office Action rejects claims 1, 11, 14, 18, 20 – 28 and 32 over Yamanaka et al. (US Patent Application Publication 2001/0016834, hereinafter Yamanaka) in view of Brown et al. (US Pub No. 2003/0046548, hereinafter Brown).

Applicants submit that for at least the following reasons, claims 1, 11, 14, 18, 20 – 28 and 32 are patentable over Yamanaka and Brown, either singly or in combination.

Applicants' amended claim 1 now incorporates features similar to those recited in the cancelled claim 3. Accordingly, a new search and/or consideration should not be required to examine such claims. Claim 1, in part, requires:

“wherein the control commands are separately transmitted each time the electronic application renders the electronic content accessible to the user, the method comprising maintaining a count of a number of times that the control commands are transmitted.”

In the Office Action, page 6, the Office conceded that Yamanaka fails to disclose that the control commands are transmitted every time or a count of the number of times that control commands are transmitted is maintained. Applicants further submit that Brown does not teach or suggest the above claimed features. Therefore, claim 1 is patentable over Yamanaka and Brown.

In the Office Action, page 7, the Office alleged that Lamkin et al. (US Patent Application Publication 2004/0220926, hereinafter Lamkin) discloses the above claimed features. Applicants respectfully disagree.

Although Lamkin, paragraphs [0240] – [0241], discloses that a usage count is maintained, this count corresponds to the number of times that a file may be accessed for the particular rights obtained. In contrast, the claimed invention requires a count on the number of times the control commands are transmitted. Applicants submit that the usage count in Lamkin is not the same as the count on the number of times the control commands are transmitted, as claimed. This is because, Lamkin discloses that “the rights to a file may be for a given number of usage counts,” and therefore, there is a usage count limit associated with the rights acquired, and thus it is the usage count that is kept, but not the number of times the rights are transmitted. Lamkin further discloses that “The access rights manager 482 may be required to obtain or validate licenses for entities before allowing playback each time or may internally track the licenses expiration and usage constraints.” Therefore, in Lamkin, either the licenses for entities are obtained/validated each time before allowing playback, or once the access rights are transmitted, there is no need to transmit the rights until the usage count reaches a reference value or the license expires. In either case, Lamkin does not require a count on the number of times the rights are transmitted. Therefore, Lamkin also fails to disclose the claimed feature: wherein the control commands are separately transmitted each time the electronic application renders the electronic content accessible to the user, the method comprising maintaining a count of a number of times that the control commands are transmitted. Therefore, claim 1 is patentable over Yamanaka, Brown, and Lamkin.

Similarly, independent claim 18, in part, also requires:

“wherein the control commands are separately transmitted each time the electronic application renders the electronic content accessible to the user, the method comprising maintaining a count of a number of times that the control commands are transmitted.”

Furthermore, independent claim 20, in part, similarly requires:

“wherein the control commands are separately transmitted each time the application renders the content accessible to the user, the method comprising maintaining a count of a number of times that the control commands are transmitted to the device.”

Since, similar to claim 1, both claims 18 and 20 require that the control commands are separately transmitted each time the application renders the content accessible to the user and that a count of a number of times that the control commands are transmitted is maintained, Applicants essentially repeat the above arguments for claim 1 and apply them to claims 18 and 20, pointing out why Yamanaka, Brown, and Lamkin fail to disclose the above claimed features. Therefore, claims 18 and 20 are also patentable.

Under 35 U.S.C. 103(a) the Office Action rejects claims 2, 15 – 17 over Yamanaka in view of Brown et al. (US Pub No. 2003/0046548, hereinafter Brown) in view of Wu (US Pat No. 6874018); claims 3, 4, 6 – 8, 10, 29 – 31 and 34 over Yamanaka, Brown and Wu further in view of Lamkin; claims 12, 13 and 19 over Yamanaka and Brown further in view of Donian et al. (US Patent Application Publication 2004/0003398, hereinafter Donian); claim 9 over Yamanaka, Brown in view of Lamkin further in view of Donian, and claims 5 and 33 over Yamanaka, Brown in view of Ochiyama et al. (US Patent Application Publication 2004/0031377, hereinafter Ochiyama).


Applicants submit that none of the cited secondary references can cure the defects present in Yamanaka, Brown and Lamkin, as discussed above for claims 1, 18 and 20. Applicants further submit that the Office Action has not specifically identified any location where any secondary reference can cure these defects. Claims 2, 4 – 17, 19 and 21 – 34 are patentable for at least the same reasons as independent claims 1, 18 and 20, and are patentable from which they depend. Claim 3 is cancelled.

Withdrawal of the rejection of claims 1 – 34 under 35 U.S.C. 103(a) is respectfully requested.

Conclusion

In view of the foregoing, Applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Harris A. Wolin', written over a horizontal line.

By: Harris A. Wolin
Registration No.: 39,432

For: Kevin C. Ecker
Registration No.: 43,600
Phone: (914) 333-9618

Please direct all correspondence to:

Kevin C. Ecker, Esq.
U.S. PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001